

[4] Imputation of Income or Expenses Among Related Corporations in Order Clearly to Reflect Income [New]

Regardless of whether their statutes or case law authorize combined reporting for affiliated corporate entities, many states have adopted provisions identical or analogous to Section 482 of the Internal Revenue Code, which authorizes the Secretary of the Treasury to "distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among" commonly controlled entities "in order to prevent evasion of taxes or clearly to reflect income."^{900.13} For example, Alaska, California, and Hawaii have expressly incorporated Section 482 into their own tax codes.^{900.14} Other state legislatures have adopted their own statutes based on Section 482,^{900.15} and still other states provide their respective taxing authorities with broad power to prevent distortions of net income and evasion of taxes.^{900.16} The Maryland Court of Appeals cited the foregoing authority in holding that the Maryland law did not authorize the Comptroller to impute interest income to a related entity under Section 482:

There is no reason why [the Comptroller] could not seek similar authority from the General Assembly. However, until [the Comptroller] obtains the authority to allocate income for tax enforcement purposes, it cannot assume that it has such authority from the provisions of the federal tax code.^{900.17}

^{900.13} IRC § 482.

^{900.14} Alaska Stat. § 43.20.021(a) (Lexis 1998); Cal. Rev. & Tax Code § 24725 (West 1999); Hawaii Rev. Stat. § 235-2.3 (Supp. 1998).

^{900.15} See Ariz. Rev. Stat. Ann. § 43-942(A) (West 1998); Ark. Code Ann. § 26-51-805(e) (Michie 1997); Colo. Rev. Stat. Ann. § 39-22-303(6) (West 1999); D.C. Code Ann. § 47-1810.3 (1997); Ind. Code Ann. § 6-3-2-2(m) (Michie 1998); Kan. Stat. Ann. § 79-32,141 (1997); La. Rev. Stat. Ann. § 47:287.480(2) (West 1990); Okla. Stat. Ann. tit. 68, § 2366 (West 1992); Or. Rev. Stat. § 314.295 (1997); Utah Code Ann. § 59-7-113 (1996); Wis. Stat. Ann. §§ 71.30(2), 71.80(1)(b) (West 1999).

^{900.16} See Conn. Gen. Stat. § 12-226a (1997); Ga. Code Ann. § 48-7-58(a) (1995); NY Tax Law § 211(5) (McKinney 1990); NC Gen. Stat. § 105-130.16 (1997); RI Gen. Laws § 44-11-4 (1995); Va. Code Ann. § 58.1-446 (Michie 1997).

^{900.17} Comptroller v. Gannett Co., 356 Md. 699, 741 A2d 1130, 1141 (1999).

C. FAIR APPORTIONMENT
